

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WILLIAM CONSTANT,

Plaintiff,

16 Civ. 03985 (PMH)

- against-

JOINT PROPOSED VOIR DIRE

NEDZAD DAPCEVIC, ANTONIO ALBAN, and
BRIAN STURTEVENT,

Defendants.

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BRIEF SUMMARY OF CASE

Plaintiff William Constant was an inmate housed at Green Haven Correctional Facility on May 27, 2013. On that day, in the courtyard of the facility, another inmate assaulted him by slashing him multiple times with a sharp object. Mr. Constant and the other inmate walked through the courtyard towards Defendant Correction Officers Nadzed Dapcevic, Antonio Alban, and Brian Sturtevant. Mr. Constant contends that the Defendant Officers saw that he had been seriously injured and had the opportunity to intervene, but that the Defendants failed to act to protect him, which led to a further altercation between Plaintiff and the other inmate. Mr. Constant further contends that Defendant Dapcevic then used excessive force against him by striking him several times with a wooden baton, including in the head, and that Defendants Alban and Sturtevant failed to intervene to protect him from the use of excessive force.

Defendants deny these allegations. Defendants contend that the responses of Officers Dapcevic, Alban, and Sturtevant were appropriate under the circumstances, and that while Officer Dapcevic used force against Plaintiff, it was not excessive, but necessary to prevent further harm. Officer Dapcevic further disputes the number of times he used force against Mr. Constant and

contends he never at any point struck Mr. Constant in the head.

GENERAL QUESTIONS

1. Based on my summary, do you have any personal knowledge of the facts or allegations in this case?
2. Do you have any opinions regarding the nature of the allegations that may prevent you from being a fair and impartial juror in this case?
3. Have you heard, read, or seen anything through the media, internet, or any other source that you think, for any reason, may prevent you from rendering a fair and impartial verdict in this case?
4. Do any of you have any physical ailment or disability or personal problems that would prevent you from serving in this case for the duration of the trial?
5. Do any of you have any difficulty with your sight or hearing that could affect your serving as a juror?
6. Do any of you have any difficulty understanding or reading the English language?
7. Do any of you have any religious, moral or ethical beliefs which would prevent you from passing judgment on another person?
8. Under the law, the facts are for the jury to determine and the law is for the Court. The two areas are separate and distinct. At the end of the case, I will instruct you on the law, and you are required to accept the law as it is explained to you. It will be your job to determine the facts under my explanation of the law. Do you feel that you may not be able to apply the law as I explain it if you disagree with it?

TRIAL PARTICIPANTS

1. Do you know me, Judge Philip Halpern, or any of my staff?
2. This is a civil lawsuit brought by plaintiff William Constant. Do you know, or, to your knowledge, have you had any dealings, directly or indirectly, with Mr. Constant, or with any relative, friend or associate of his?
3. The defendants in this case are Nedzad Dapcevic, Antonio Alban, and Brian Sturtevent. Do you know, or, to your knowledge, have you had any dealings, directly or indirectly, with them, or with any of their relatives, friends or associates?
4. Plaintiff is represented by Steven Stern of the law firm Sokoloff Stern LLP. Do you know, or, to your knowledge, have you had any dealings, directly or indirectly, with these individuals or any employees or members of the law firm Sokoloff Stern LLP?

5. Defendants are represented by Amanda Yoon and Andrew Blancato for the New York State Attorney General's Office. Do you know, or, to your knowledge, have you had any dealings, directly or indirectly, with these individuals or any employees or members of their office?
6. Do you know or are you familiar with any of the following individuals, who may be witnesses or mentioned during this trial?
 - a. Michael Hurley
 - b. Davon Gwin
 - c. Joseph Foster
 - d. Michael Vennero
 - e. David Lindemann
 - f. Robert Bentivegna
 - g. Robert Duarte
 - h. Ronald Cabral
 - i. Edward Burnett
 - j. Gregory Mazarin
 - k. Kishore Ranade
7. Are you familiar with the Green Haven Correctional Facility?
8. As you look around the room, do you recognize anyone you know?
9. Are you currently acquainted with anybody that would affect their ability to be a fair and impartial juror in this case?

INTERACTION WITH THE STATE AND LAW ENFORCEMENT

1. Have you, any close friend or member of your family ever been an employee of the State of New York, or any state governmental agency, including the New York State Department of Corrections and Community Supervision or the Attorney General? If yes, please describe.

2. Have you had any personal experience or interaction with any law enforcement agency, or any law enforcement officers? By law enforcement officer, I mean a police officer, a parole officer, a corrections officer, an FBI agent or anyone who is responsible for enforcing criminal laws.

3. Would anything about that experience make it difficult for you to be fair and impartial in this case?

4. Have you, any family members or close friends ever been arrested? (come to sidebar if necessary).

5. Would anything about that experience make it difficult for you to be fair and impartial in this case?

6. Have you, members of your family, or your friends ever worked at a prison or jail?

7. Have you, members of your family, or your friends ever been incarcerated in any jail or correctional facility?

8. Would the fact that plaintiff was an incarcerated individual or that defendants are correction officers affect your ability to be a fair and impartial juror?

8. Might you be more or less likely to award money damages to a plaintiff when the defendants are government employees or law enforcement officers?

9 Do you now have, or have you ever had, a lawsuit or a claim for compensation against the State of New York or any of its agencies or employees?

10. Have members of your family or close friends ever had such a lawsuit or claim?

11. Do you believe that more often than not, law enforcement officers abuse their authority?

12. Have you ever heard the term “the blue or grey wall of silence” and do you believe that more often than not, such a wall exists among law enforcement officers?

13. Did you or any member of your family or close friends ever work as a law

enforcement officer?

14. Are you, any member of your family or any close friend, now involved (or have ever been involved in) the state or federal court system, the federal, state or local police, prison or parole systems or any other area of law enforcement?

15. What was the capacity of the involvement?

16. When did this involvement occur?

EXPERIENCE WITH HEAD INJURIES

1. Have you or has anyone you've known suffered a serious head injury?

2. How has that injury affected you or him/her?

3. Did that person have permanent damage as a result?

BACKGROUND QUESTIONS

1. Where do you live -- you need not give me the exact address but the general area, for example, "the east side in the 80s."

2. How long have you lived in your current residence?

3. What other communities have you lived within the past ten years?

4. Other than the New York metropolitan area, where have you lived?

5. What level of education did you complete?

6. What is your occupation and title and how long have you been at your current position? If retired, what did you do before?

7. What are/were your duties and responsibilities?

8. Prior to your current job, what other occupations or positions have you held?

9. Who are the members of your household?

10. What do they do [occupation]?

14. Have any of you ever sat as a juror or grand juror before in any type of case? If so, please state whether the case was in state or federal court, whether it was a civil or criminal matter, and, without stating what your verdict was, whether a verdict was reached. For those of you who have described prior jury service, is there anything about your prior experiences as a juror that would prevent you from acting as a fair and impartial juror in this case?

15. Have you or any member of your family or any close friends ever testified as a witness at either a deposition, trial or a grand jury investigation. If so, what was the case about? Is there anything about that experience as a witness that would prevent you from acting as a fair and impartial juror in this case?

16. Have you, any member of your family or close friends ever been a party, that is, a plaintiff or a defendant, in a state or federal court case, whether criminal or civil? If so, what kind of case? And, what did it involve? Is there anything about that experience as a party in a case that would prevent you from acting as a fair and impartial juror in this case?

17. What do you do in your spare time?

18. What material do you enjoy reading? What topics interest you?

19. What newspapers and magazines do you read?

20. What television programs do you watch?

21. What stations and programs do you listen to on the radio?

22. What organizations do you belong to?

23. Where do you get your news?

24. Aside from the questions that have already been asked, is there anything else you believe that this Court, Plaintiff, or Defendants might want to know in deciding whether you should be selected to serve as a juror in this case?

Dated: New York, New York
October 7, 2022

Respectfully submitted,

S/ Steven Stern

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